

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

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)  
IN THE MATTER OF THE WINDING DOWN OF: )  
)

THE NEW HAMPSHIRE MEDICAL MALPRACTICE )  
JOINT UNDERWRITING ASSOCIATION )  
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\_\_\_\_\_ )

No. 217-2015-CV-00347

**RECEIVER'S MONTHLY STATUS REPORT FOR MAY 2019**

John R. Elias, Insurance Commissioner of the State of New Hampshire

("Commissioner"), as Receiver ("Receiver") of the New Hampshire Medical Malpractice Joint Underwriting Association ("NHMMJUA"), submits this monthly report as of May 31, 2019 in accordance with paragraph 11 of the Order of Rehabilitation for the NHMMJUA ("Rehabilitation Order").

1. As noted in the Receiver's Monthly Status Report for November 2018, the Receiver has transferred \$85,736,000 to the *Tuttle* class action account pursuant to the orders dated September 11, 2018 and November 8, 2018 approving the first and second interim distributions and discharging the Receiver with respect to the transferred amounts. In light of those transfers, the limited remaining assets, and the limited activity expected going forward, the Receiver is now filing shorter monthly reports. The Receiver's Monthly Status Report for November 2018 summarizes the principal events in this proceeding from its inception in July 2015 through November 2018.

2. As of April 30, 2019, cash and cash equivalents under the Receiver's control total \$2,427,861. Net assets (after deduction of the remaining Hardship Fund and incurred but unpaid

expenses) total \$456,151 at April 30, 2019. The April 30, 2019 financial statements reflecting these amounts are attached as Exhibit A. The statements also reflect net investment income totaling \$7,233 and operating disbursements totaling \$1,519,792 during April 2019. The disbursements include the transfer of the \$1,497,586 in unclaimed Stabilization Reserve Fund amounts to the Abandoned Property Division of the New Hampshire Treasurer's Office and legal fees of \$6,781 for the Receiver's counsel Rackemann, Sawyer & Brewster P.C.

3. The NHMMJUA assets have been invested daily in the Citizens Bank cash sweep account. As part of the process of closing the NHMMJUA, the Receiver is transferring the remaining assets to the NHMMJUA checking account at the Bank of America and closing the Citizens Bank accounts. That transfer is expected to be complete on June 1, 2019.

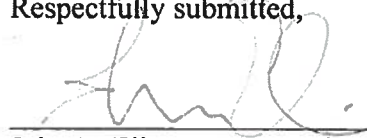
4. On April 11, 2019, the Receiver filed the Receiver's Request for Approval of Hardship Grant Determinations as of April 9, 2019. The Court approved those determinations on April 24, 2019. On May 3, 2019, the Receiver filed a motion for approval of transferring the remaining \$1,950,395 of the Hardship Fund to Endowment for Health, Inc., the charitable organization approved by the Court's order of October 16, 2018. The Court granted that motion on May 21, 2019, and the funds were transferred to Endowment for Health on May 24, 2019.

5. The records concerning the NHMMJUA policies and claims necessary for The Medical Protective Company ("MedPro") to handle coverage obligations of the NHMMJUA pursuant to the Assumption Agreement approved August 5, 2016 were transferred to MedPro in 2016. To address the remaining records of the NHMMJUA, on May 21, 2019, the Receiver filed a motion for approval of disposal of records pursuant to RSA 402-C:50. The Court granted that motion on May 22, 2019, and the Receiver has begun the disposal process.

6. The Receiver expects that this receivership proceeding will conclude in the next month and is preparing the final motions to bring the proceeding to a close. The Hays Group is providing certain administrative services to the Receiver on an as needed basis pursuant to the Administration Agreement approved by the Court on December 15, 2015. The Receiver has given notice of the termination of that agreement effective June 30, 2019.


Respectfully submitted,

Dated: 06/03/19

  
John R. Elias, Insurance Commissioner of  
the State of New Hampshire, as Receiver of  
the New Hampshire Medical Malpractice  
Joint Underwriting Association

**Certificate of Service**

I hereby certify that a copy of the foregoing Receiver's Monthly Status Report for May 2019, was sent this 31<sup>st</sup> day of June, by first class mail, postage prepaid to all persons on the attached service list.

  
Eric A. Smith  
NH Bar ID No. 16952

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**SERVICE LIST**

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## New Hampshire Medical Malpractice Joint Underwriting Association In Receivership

Statements of Net Assets  
(Modified Cash Basis - Note 1))  
(Unaudited)

	April 30, 2019	December 31, 2018
<b>Assets</b>		
Fixed-income securities and cash and cash equivalents, at cost:		
Fixed-income securities (Note 3)	-	-
Stabilization Reserve Fund Trust securities (Note 3)	-	-
Cash and cash equivalents	2,427,861	2,453,821
Stabilization Reserve Fund Trust cash and cash equivalents (Note 3)	-	1,531,616
<b>Total fixed-income and cash and cash equivalents, at cost</b>	<b>2,427,861</b>	<b>3,985,436</b>
Interest income due and accrued	4,545	4,287
Stabilization Reserve Fund Trust interest income due and accrued (Note 3)	-	1,712
<b>Total Assets</b>	<b>2,432,406</b>	<b>3,991,435</b>
<b>Liabilities</b>		
Incurred but unpaid administrative expenses and investment expenses (Note 2)	25,860	15,362
Stabilization Reserve Fund Trust for Pre 1986 Policies (Note 3)	-	1,533,328
Hardship Fund (Note 4)	1,950,395	1,976,118
Reserve for Court Order transfer to Nixon Peabody Custody Acct.	-	-
<b>Total Liabilities</b>	<b>1,976,255</b>	<b>3,524,808</b>
<b>Net Assets</b>	<b>456,151</b>	<b>466,628</b>

See accompanying notes.

**New Hampshire Medical Malpractice Joint Underwriting Association In Receivership**

**Statements of Receipts and Disbursements, and  
Changes in Cash, Bonds, Short-Term Investments and Cash Equivalents  
(Modified Cash Basis - Note 1))  
(Unaudited)**

	YTD 2019	Month of April 2019	January 1, 2018 To December 31, 2018
<b>Cash and marketable securities received:</b>			
Net investment income	27,294	7,233	2,029,182
Realized capital gains on sale of fixed-income securities (Note 1)	-	-	360,569
Income tax refund	-	-	-
All other	8,601	8,601	-
<b>Total cash receipts</b>	<b>35,895</b>	<b>15,834</b>	<b>2,389,751</b>
<b>Cash operating disbursements:</b>			
Hays Services (Note 2)	27,946	7,888	117,515
Consultant and outside service fees	4,098	2,905	41,398
Legal and audit fees	15,636	6,781	137,592
Investment expenses	1,835	407	178,654
Special Deputy Services	9,750	4,225	79,962
Hardship Grants	25,723	-	8,627
Loss & ALAE Paid (Note 1)	-	-	-
Realized capital losses on sale of fixed-income securities (Note 1)	-	-	325,402
Court Ordered Transfer to Nixon Peabody Custody Account	-	-	85,736,000
SRF Return	10,897	-	1,770,178
SB170 Transfer to State Loan Repayment Program	-	-	-
Tr. State of NH (Abandoned Property) (Note 3)	1,497,586	1,497,586	-
All other	-	-	6,158
<b>Total cash operating disbursements</b>	<b>1,593,471</b>	<b>1,519,792</b>	<b>88,401,487</b>
<b>(Deficiency)/Excess of receipts over operating disbursements</b>	<b>(1,557,575)</b>	<b>(1,503,958)</b>	<b>(86,011,736)</b>
<b>Cash receipts in excess of disbursements</b>	<b>(1,557,575)</b>	<b>(1,503,958)</b>	<b>(86,011,736)</b>
Beginning fixed-income securities, short-term investments, and cash and cash equivalents, at cost	3,985,436	3,931,819	89,997,172
<b>Ending fixed-income securities, short-term investments, and cash and cash equivalents, at cost</b>	<b>2,427,861</b>	<b>2,427,861</b>	<b>3,985,436</b>

See accompanying notes.

**New Hampshire Medical Malpractice Joint Underwriting Association In Receivership**

**Statement of Changes in Net Assets  
(Modified Cash Basis - Note 1))  
(Unaudited)**

	<u>YTD 2019</u>	<u>Month of April 2019</u>	<u>January 1, 2018 To December 31, 2018</u>
Net assets, beginning of period	\$ 466,628	\$ 422,424	\$ 88,344,517
Cash receipts less disbursements	(1,557,575)	(1,503,958)	(86,011,736)
Other changes in net assets:			
Interest income due and accrued	(1,454)	(2,803)	(334,383)
Incurred but unpaid administrative and investment expenses (Note 2)	(10,498)	(970)	(7,070)
Stabilization Reserve Fund Trust	1,533,328	1,541,458	(1,533,327)
Hardship Fund	25,723	-	8,627
Reserve for Court Order transfer to Nixon Peabody Custody Acct.	-	-	-
Other	-	-	-
Net Assets, end of period	<u>\$ 456,151</u>	<u>\$ 456,151</u>	<u>\$ 466,628</u>

See accompanying notes.

New Hampshire Medical Malpractice Joint Underwriting Association In Receivership  
(Modified Cash Basis)  
(Unaudited)

Notes to Financial Statements (continued)

**1) Basis of Accounting**

These financial statements are prepared using the modified cash basis of accounting which differs from accounting principles generally accepted in the United States. Only those assets that are within the possession of the Receiver and other known amounts of which ultimate realization is expected to occur, primarily investments and cash, and certain receivables, are recorded. Only incurred but unpaid administrative and investment expenses are recorded as liabilities in these financial statements.

These Financial statements do not record the amounts of certain assets such as outstanding receivables, subrogation recoveries and claims against others, and certain liabilities, including insurance claims, as such amounts have not been settled and agreed to with third parties.

The amount shown for loss & ALAE expenses paid primarily represents (1) Loss, (2) allocated loss adjustment expenses, and (3) expenses relating to obtaining subrogation claim recoveries.

Assets allocated for the Hardship Fund pursuant to RSA 404-C:16, III are included within fixed income securities. The Stabilization Reserve Fund Trust for Pre 1986 policies are separately stated in fixed income securities and cash and cash equivalents, as appropriate.

Realized capital gains and losses on sale of bonds are calculated based on original cost of the bonds. Proceeds received above or below cost on maturity of bonds are included as part of net investment income.

Citizens Bank replaced U.S. Trust as custodian bank and assets were transferred between banks during the period May 25, 2018 and ending on June 8, 2018.



New Hampshire Medical Malpractice Joint Underwriting Association In Receivership  
(Modified Cash Basis)  
(Unaudited)

Notes to Financial Statements (continued)

**2) Incurred But Unpaid Administrative Expenses and Investment Expenses**

Accrued administrative expenses incurred in the normal course of NHMMJUA's business and now receivership, but unpaid as of April 30, 2019, are as follows:

Hays Services	\$ 11,948
Consultant and outside service fees	-
Legal and auditing fees	6,850
Special Deputy Services	3,970
Other administration costs	<u>3,092</u>
Total accrued expenses	<u>\$ 25,860</u>
Deutsche accrued investment expenses	-
Total accrued expenses	<u><u>\$ 25,860</u></u>

The amount of accrued expenses at December 31, 2018 was \$15,362 and net assets for 2019 decreased by \$10,498 due to the increase in accruals.

**3) Stabilization Reserve Fund Trust for Pre 1986 Policies**

The Stabilization Reserve Fund Trust ("SRF") was funded by a surcharge on the annual gross premiums charged for primary medical malpractice liability coverage written in the State of New Hampshire for January 1, 1986 to December 31, 1993. The assessment applied to New Hampshire health care providers except those never insured by the NHMMJUA. Prior to August 31, 2016 SRF investments and cash were included within Fixed Income Securities and Cash and Cash Equivalents, as appropriate. Effective August 31, 2016 the SRF investments, cash and interest income due and accrued on investments were separately stated with the corresponding liability eliminated in light of the Assumption Agreement (see note 6). Effective with the January 31, 2018 Unaudited Financial Statement the Receiver has concluded to establish a liability for the SRF consisting of SRF securities, SRF cash on hand and SRF accrued interest income due and accrued. On April 1, 2019 the Receiver filed a T-1 Report of Abandoned Property with the New Hampshire State Treasurer attaching a check totaling \$1,497,586.17 covering unclaimed SRF Funds plus non cashed SRF and operating account checks issued by the NHMMJUA.

**4) The Hardship Fund**

The Hardship Fund was established pursuant to RSA 404-C:16, III and for purposes of this presentation the remaining balances are shown as a liability. The statute provides that if funds remain in the hardship fund at the termination of the receivership the receiver shall, with court approval, and before discharge of the receiver, transfer any remaining funds to a charitable organization that promotes aid to health care providers serving medically underserved populations.

**5) MedPro Assumption of Liabilities**

Medical Protective Company ("MedPro") and the Receiver entered an Assumption Agreement which, as amended, was approved by the court on August 5, 2016. The transaction closed and MedPro assumed the NHMMJUA Obligations as defined on August 25, 2016. That day the Receiver paid MedPro the consideration required by the Assumption Agreement (which after adjustments, totaled \$23,156,298.22 of which \$5,000,000 came from the Stabilization Reserve Fund Trust).